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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

WILLIAM DALE LEE,
Plaintiff,

vs.

KILOLO KIJAKAZI,
Acting Commissioner of Social Security,¹
Defendant.

Case No.: 2:21-cv-01569-VCF

**UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE CERTIFIED
ADMINISTRATIVE RECORD AND ANSWER**
(FIRST REQUEST)

¹ Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 Defendant, Kilolo Kijakazi, Acting Commissioner of Social Security (the “Commissioner”), by
2 and through her undersigned attorneys, hereby moves for a 30-day extension of time to file the Certified
3 Administrative Record (CAR) and Answer to Plaintiff’s Complaint. The CAR and Answer to Plaintiff’s
4 Complaint are due to be filed by November 15, 2021. Defendant requests that this due date be extended
5 to December 15, 2021. This is Defendant’s first request for an extension of time. Counsel for Defendant
6 advised counsel for Plaintiff of the need for this extension on November 10, 2021. Counsel for Plaintiff
7 confirmed that Plaintiff does not object to this request.

8 Defendant makes this request in good faith and for good cause, because the certified
9 administrative record (CAR), which must be filed with the Answer and is necessary to adjudicate the
10 case, is not yet available. On November 9, 2021, counsel for Defendant contacted the Social Security
11 Administration’s Office of Appellate Operations (OAO) in Falls Church, Virginia, which is responsible
12 for producing the CAR that must be filed with the Answer, per 42 U.S.C. §§ 405(g) and (h). OAO
13 indicated that the CAR would not be completed in time to file the CAR and Answer by the current due
14 date of November 15, 2021.

15 The public health emergency pandemic caused by COVID-19 has significantly impacted
16 Defendant’s operations, and particularly the operations of OAO. Beginning in mid-March 2020, OAO’s
17 staff members began to telework to protect employee health and prevent the spread of COVID-19. As a
18 result, critical in-person physical tasks associated with preparing CARs could not be accomplished. To
19 ensure continuity of operations, OAO redesigned its business practices to allow for a mostly virtual
20 preparation process. The transition required, among other things, OAO to modify and test technology,
21 retrain staff, and modify blanket purchasing agreements with the transcription typing services relied upon
22 to prepare transcripts of agency hearings. OAO has continued to innovate to improve productivity.

23 In addition to the impact the COVID-19 pandemic has had on physical operations, a major
24 contributing factor to OAO operations was a substantial increase in district court filings. New case receipts
25 during the last quarter of FY 2020 and the first quarter of FY 2021 increased (on average) to 2,257 case
26 receipts per month, as compared to 1,458 per month for the same period one year before. As of the end of
September 2021, OAO had approximately 1,500 pending new court cases, representing a decrease in the

backlog of more than 9,500 cases since January 2021. There remains, however, a backlog of cases to be processed, including this case.

Accordingly, Defendant requests an extension of 30 days in which to file the CAR and Answer, changing the date on which the Answer is due from the current due date of November 15, 2021, to the new due date of December 15, 2021. Should Defendant be unable to file an Answer prior to December 15, 2021, Defendant shall request an additional extension prior to that date.

Dated: November 10, 2021

CHRISTOPHER CHIOU
Acting United States Attorney

/s/ Chantal Jenkins
CHANTAL JENKINS
Special Assistant United States Attorney

OF COUNSEL:

DAVID PRIDDY
Assistant Regional Counsel
Social Security Administration

IT IS SO ORDERED


UNITED STATES MAGISTRATE JUDGE

DATED: 11-15-2021

CERTIFICATE OF SERVICE

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 160 Spear Street, Suite 800, San Francisco, California 94105. I am not a party to the above-entitled action. On the date set forth below, I caused service of **UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE CERTIFIED ADMINISTRATIVE RECORD AND ANSWER** on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which provides electronic notice of the filing:

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Attorneys for Plaintiff

I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 10, 2021

/s/ Chantal Jenkins
CHANTAL JENKINS
Special Assistant United States Attorney